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August 6, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., Room A325
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 98-45; CC Docket No. 96-262

Dear Ms. Salas:

Herewith transmitted, on behalf of United States Cellular Corporation ("USCC"), are an original and four copies of its "Reply Comments" in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,


Peter M. Connolly

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
) CC Docket No. 96-45
Federal-State Joint Board)
on Universal Service)
)
Access Charge Reform) CC Docket No. 92-262

**REPLY COMMENTS OF
UNITED STATES CELLULAR CORPORATION**

United States Cellular Corporation ("USCC") hereby files its
Reply Comments in the above-captioned proceeding.

Introduction

In its Comments, USCC supported the establishment of universal
service mechanisms pursuant to Section 254 of the Communications
Act¹ which would be specific, predictable, and sufficient, promote
operating efficiency, which would eliminate artificial investment
incentives, and, most importantly, would recognize the central role
of local competition in promoting the availability of affordable
and reasonably comparable essential services.

¹ 47 U.S.C. §254 (b)

USCC endorsed the following specific steps proposed in the FCC's *Seventh Report and Order*² in this docket: (1) universal service support should be made available to all eligible telecommunications carriers, including CMRS carriers such as USCC; (2) explicit support should be based on forward looking costs; (3) the FCC should target explicit support to subscribers in geographic areas most in need of support; (4) "portability" of support is crucial to the development of local service competition; and (5) the FCC should ensure a level playing field between wireline and wireless carriers by preventing a "double recovery" of universal service support at the state and federal level by wireline carriers.³

**I. The FCC Must Now Focus On
Wireless Concerns In Adopting
Universal Service Rules**

The FCC must adopt a new system of high cost support for non-rural carriers by January 1, 2000, five months from now.⁴ It is

² *Federal-State Joint Board on Universal Service, Access Charge Reform, Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45 Forth Report and Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking, FCC 99-119 (released May 28, 1999) ("Seventh Report and Order").*

³ See *Seventh Report and Order*, ¶72, ¶50, ¶5, ¶74, ¶3 ¶6, and ¶115.

⁴ *Seventh Report and Order* ¶5.

likely that the filing of these reply comments will be the last chance parties will have to discuss the new high cost support structure (other than through ex parte filings) before it is adopted.

And yet, despite many orders in this docket and the years of effort the FCC has devoted to this issue, wireless carriers still do not have the faintest idea of how they will fit into the high cost support structure. What the FCC has said about wireless participation, while welcome from a wireless standpoint, still falls into the category of unexceptionable platitude, and lacks the necessary specificity to be commented on meaningfully. Unfortunately, reading the *Seventh Report and Order* and the overwhelming majority of comments filed on July 23, 1999, one would barely discern that wireless carriers even exist, much less that they comprise a huge and growing portion of the nation's telecommunications infrastructure. One would also not realize that they are regulated in a manner entirely different from the way LECs are regulated. However, the "wireless difference" will have large consequences for the high cost fund, whether the FCC and commenting parties wish to acknowledge it or not.

To choose a few examples, the *Seventh Report and Order* asks comment on whether "study areas," "UNE cost zones," or "wire centers" should be used as the relevant geographic unit for high

cost support.⁵ As will be discussed below, of those options, USCC supports disaggregation at the wire center level. However, none of those geographic units corresponds to cellular or PCS service areas. How will wireless service areas be made to "fit" into the geographic structure? Will only the wireless customers who reside within a given "wire center" or exchange be eligible for high cost support? We still have no idea.

Also, the FCC asks whether a "hold-harmless" subsidy principle should be applied "carrier by carrier" or state by state?⁶ Nowhere is it mentioned that wireless carriers do not now receive any universal service subsidies and thus a "hold harmless" subsidy to carriers would prevent wireless carriers from receiving any part of this portion of the fund and thus constitute a continuing cross-subsidy to LECs.⁷

One basic difference between wireless and wireline carriers is that wireless carriers are not rate regulated at the state or federal level, while LEC rates are regulated at both levels and always have been. To wireline carriers, such matters as "Subscriber Line Charges" ("SLCs,") Carrier Common Line Charges

⁵ *Seventh Report and Order*, ¶102-105.

⁶ *Id.*, 15 117

⁷ It should be noted however that since January of 1998 wireless carriers have paid many millions of dollars for such support.

("CCLCs"), Pre-subscribed Interexchange Carrier Charges ("PICCs"), and access charges are profoundly important and they rightly argue the FCC must take into account the interaction of such charges with the proposed high cost structure in formulating that structure. However, such charges do not apply to wireless carriers. Accordingly, the universal service support received by wireless carriers should not depend on changes in such payments made by and among LECs and IXC's and the FCC's high cost fund structure should reflect this difference. But there is no sign, as yet, that the FCC even recognizes the problem.

Also, it has always been the case in recent U.S. history that deregulation and competition have led to lower prices. So the overall size of the high cost fund should not be enlarged by wireless carriers being eligible to participate in it. However, if the FCC preserves existing implicit subsidies for LECs in new forms, such as a "hold harmless" formula, while adding newly eligible carriers, it may put expansionary pressure on the size of the fund, thus undermining the Commission's objective that the fund's size be contained.

Finally, the FCC has thus far ignored the basic question of whether wireless and wireline carriers may both receive support for the different "lines" they provide to the same "high cost" customers and if not, which carrier is to receive support. An

answer to this question is vitally necessary in order that all carriers may plan intelligently.

Melding these two different industry structures into one for the purposes of creating a workable high cost fund will be a task of great difficulty and complexity. It poses questions to which no one now has all the answers, including USCC. However, in order to arrive at reasonable answers, one has to ask the questions and the FCC has not, as yet, done so.

The time is growing short, but we would suggest that when the FCC does finally focus on wireless in the next five months and decides on the approach it plans to take, it should give all parties, including wireless carriers, a chance to comment on what is proposed. An additional comment cycle will be better than the inevitable regulatory "train wreck" which will occur if an unworkable structure is put in place.

II. In The Interim The FCC Should Adopt The Proposals Made By Wireless Carriers

If a fair and competitively neutral universal service system is to be created, it will have to be one in which support flows to the carrier best able to serve customers in high cost areas at the lowest cost, whether the technology used is wireline or wireless in nature. In order to achieve that goal, the FCC must first focus on the basic differences between LECs and wireless companies discussed

in the prior section and attempt to design a system which is fair to both types of carriers.

When it does that, the FCC will find many workable proposals in the comments of wireless entities participating in this proceeding.

USCC agrees with Western Wireless, for example, concerning the three main points made in its comments.⁸

First, as noted above, USCC agrees that the use of geographically disaggregated areas such as "wire centers," will be important to ensuring that support is "targeted" to customers who most need it and to promoting competition in the provision of service in high cost areas. Though also, as noted above, the Commission must give guidance to wireless carriers concerning how their service areas are to be "fitted" into the geographic unit chosen by the FCC.

Second, assuming that the wireless carriers are designated as eligible telecommunications carriers in all states, USCC also agrees with Western Wireless and other commenters that the growth of the fund should be limited by a relatively high percentage "benchmark" with "tapered" payment amounts.⁹ USCC also supports requiring the states to assume a significant share of the

⁸ Western Wireless Corporation Comments, pp. 3-18.

⁹ Western Wireless Comments, pp. 6-9.

responsibility for high cost support and backs including wireless lines within the calculation of a state's ability to use its own resources to support universal service.

Also, as a necessary means of limiting the growth of the high cost fund, the FCC should phase out any "hold harmless" provisions which it may adopt over a reasonable period of time. Such provisions, from which wireless carriers, by definition, cannot benefit, only lock in the unfairness of the old system toward wireless carriers by creating new implicit subsidies for LECs at a time when all such subsidies are supposed to be replaced by explicit, competitively neutral subsidies.¹⁰

Third, we associate ourselves with Western Wireless's and Omnipoint's arguments that neither the FCC nor the states should impose any additional requirements on wireless carriers to assure that wireless ETCs use universal service support only for the purposes of Section 254(e) of the Act.¹¹ We agree with those commenters that any such regulations would be burdensome, as well as contrary to Section 332 of the Act as constituting rate regulation and would be generally counterproductive. They would

¹⁰ Western Wireless Comments, pp. 10-13. Comments of the Personal Communications Industry Association, pp. 7-8.

¹¹ Western Wireless Comments, pp. 14-16. Comments of Omnipoint Communications, Inc., pp. 1-3.

also be unnecessary from a practical standpoint, as there is no reason to believe that unreasonable pricing would not lead to loss of customers in a competitive market.

Conclusion

If the competitive provision of supported high cost services is to become a reality, the FCC must take into account the profound differences between wireline and wireless companies in formulating its rules and policies. Despite the late stage of this proceeding, it has not yet begun to do so. However, it must do so before January 1, 2000, when a new high cost system is scheduled to be in place or else regulatory chaos could result.

Finally, in adopting rules which will treat wireless carriers fairly and foster a competitive and efficient system, the FCC should initially be guided by the proposals put forward by USCC, Western Wireless and other wireless carriers.

Respectfully submitted,

UNITED STATES CELLULAR CORPORATION

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August 6, 1999

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